

Appl. No. 09/706,095

R E M A R K S

Claims 9-12 and 17 have been amended. Claims 23-24 have been cancelled. Claims 1-8, 13-16 and 18-22 stand as previously presented. Support for the amendments is found, for example, in the 5 Applicants' specification at page 1, line 19, page 9, lines 13-16, page 14, line 10 to page 17, line 12, and in claim 1. No new matter has been added.

Claims 1-24 were considered in the Office Action.

10 Claims 1-8 are allowed. Claims 9-24, and more specifically independent claims 9, 17, 22, 23 and 24, stand rejected under 35 U.S.C. 112, 2nd paragraph, as being indefinite.

15 Claim 9 has been amended to clarify that program code may be executed either on simulated hardware or physical hardware. The program code contains a predetermined sequence of instructions which, when executed on simulated hardware, set a flag indicating that the program code is being executed on simulated hardware, and when executed on physical (non-simulated) hardware, does not set the flag. The program code may thus determine whether it is executing on physical or simulated hardware. Applicants believe that claim 9, 20 as amended, is clear and is allowable, and respectfully request reconsideration.

25 Claim 17 has been amended to correct the element number iii, and to clarify that the instructions may be executed either on the physical computer hardware for which it is destined, or on a simulation of that computer hardware. Please note that the "computer readable program code" is the embodiment of the computer hardware simulator. In contrast, the "instructions" are the software written to be executed either on computer hardware, or on the simulation of that computer hardware, the "computer hardware 30 simulator" of the preamble.

When the instructions are executed on a computer hardware

Appl. No. 09/706,095

simulator rather than on the actual computer hardware, a flag may be set to indicate that the instructions are being executed on the simulator rather than the actual computer hardware. This is accomplished by computer readable program code of the computer hardware simulator including code that examines the instructions for a predetermined set of instructions and for setting the flag if the predetermined set of instructions is present. Because the actual computer hardware would not have this functionality, the flag that is set when the instructions are executed on the computer hardware simulator would not be set when the instructions are executed on the actual computer hardware, enabling the software containing the instructions to determine whether it is being executed on actual computer hardware or a simulation of the computer hardware.

Applicants believe that claim 17, as amended, is clear and allowable and respectfully request reconsideration.

Applicants respectfully disagree that claim 22 is unclear. Applicants traverse the rejection and respectfully request reconsideration. As is described in Applicants' specification and is well known, computer software, such as the instruction sequence of claim 22, may be executed both on computer hardware and on a simulation of the computer hardware. The software, or instruction sequence, may include a predetermined instruction sequence. If the instruction sequence is executed on a simulation of the computer hardware, and if it contains the predetermined instruction sequence, the computer hardware simulator indicates that it is a simulator (and thus not the actual computer hardware).

As described in Applicants' specification, the software is not prepared to execute only on computer hardware or on a simulation of the computer hardware, but on both, and if it contains the predetermined instruction sequence, the software may learn whether it is executing on the computer hardware or the simulation of the hardware because the hardware simulator will detect the predetermined instruction sequence and identify its presence.

Appl. No. 09/706,095

The Applicants believe that the currently pending claims are not anticipated by or obvious over the cited references and respectfully request reconsideration.

5 Dated: 5/17/04

Respectfully submitted,
KLAAS, LAW, O'MEARA & MALKIN, P.C.

10 By: Guy K. Clinger

Guy K. Clinger, Esq.
Registration No. 42,422
1999 Broadway, Suite 2225
Denver, CO 80202
(303) 298-9888
Fax: (303) 297-2266